



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 2609-00
22 September 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 29 December 1954 for four years at age 18. The record reflects that you were advanced to SA (E-2) and changed your rate to MMFA.

You served without incident until 5 September 1956 when you were convicted by a special court-martial of a 44-day period of unauthorized absence (UA). You were sentenced to confinement at hard labor for four months, forfeitures of \$40 per month for four months, and reduction in rate to MMFR. You were advanced again to MMFA on 14 December 1956.

On 6 January 1957 you requested a humanitarian reassignment to assist your semi-invalid grandmother. However, the Chief of Naval Personnel denied your request because the evidence you presented did not meet the standards for a humanitarian or hardship reassignment.

During the months of February and March 1957 you received a nonjudicial punishment (NJP) and were convicted by a summary court-martial. Your offenses consisted of a brief period of UA and absence from your unit without authority.

On 21 March 1958 you were convicted by a second special court-martial of a 33 day period of UA. You were sentenced to confinement at hard labor for five months, forfeitures of \$65 per month for five months, reduction in rate to MMFR, and a bad conduct discharge. However, the convening authority suspended the bad conduct discharge for the period of confinement and six months thereafter. The Navy Board of Review affirmed the findings and the sentence on 22 April 1958. You were advanced again to MMFA on 22 July 1958.

On 23 October 1958 you were convicted by a third special court-martial of a 56-day period of UA, from 7 August to 2 October 1958. You were sentenced to confinement at hard labor for six months, forfeitures of \$65 per month for six months, reduction in rate to MMFR, and a bad conduct discharge. The Navy Board of Review affirmed the findings and the sentence on 12 November 1958. Thereafter, you waived your right to request restoration to duty and requested execution of the bad conduct discharge. You stated as follows:

"I have hardships at home. Have tried every way to get out. Even tried to get a humanitarian transfer. Nothing worked, so I had to go over the hill. If I go back to duty I can be of no help at home and will probably get into trouble again."

You received the bad conduct discharge on 2 February 1959

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been more than 41 years since you were discharged. The Board noted your contention that you were raised by your grandparents and when your grandfather died you went UA to help your grandmother. The Board concluded that the foregoing factors and contention were insufficient to warrant recharacterization of your discharge given your record of an NJP and convictions by a summary court-martial and three special courts-martial. While the Board appreciated the hardship situation that may have existed with your grandmother, there were other siblings who could have lent her support and a humanitarian assignment was considered inappropriate. Further, your lost time due to UA and military confinement totaled 467 days. Your confinement alone totaled nearly 12 months, time which could have been spent more constructively in trying to obtain the necessary evidence to

support a hardship discharge. The Board concluded that you were guilty of too much misconduct. Your conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director